

**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF FREMONT**

STATE OF IDAHO

Plaintiff,

v.

LORI NORENE VALLOW aka LORI
NORENE VALLOW DAYBELL,

Defendant.

Case No. CR22-21-1624

ORDER

In anticipation of extensive *in-camera* questioning of prospective jurors touching upon highly intimate details of private views or information during voir dire and the need to balance the rights of the parties to a fair trial (*see* I.C.A.R. 32(i)(2)(E)), with the Defendant's Sixth Amendment rights and the public's First Amendment rights the Court enters the following Order.

Juror voir dire is the process of questioning potential jurors in a jury trial. In Idaho the Constitution and Idaho Code Section 19-5306 establish certain rights of crime victims including their right to be present at all criminal justice proceedings. To protect this right, with regard to juror voir dire process and in order to promote open court proceedings, public access will be provided to view juror voir dire in this case through a simulcast transmission from the courtroom to a secured room in the Ada County Courthouse and to a designated room in the Madison County Courthouse.

Crime Victims, as defined in the Idaho Constitution, will have reserved seating in the simulcast rooms with remaining seating available open to the general public pursuant to the seat reservation system provided for in the courtroom conduct orders previously issues.

The Court has carefully considered many options in reaching this conclusion—including closing and sealing the voir dire process. Specifically:

The Court finds that there is a First Amendment right to public trials with a public-trial guarantee afforded for the benefit of a defendant in a criminal trial.¹

The Court finds that portions of juror voir dire—particularly individualized questioning of jurors—will be so probing that it could frustrate the purpose of questioning by publicly disclosing such sensitive personal information of prospective jurors.

The Court finds that any hindrance to a thorough, searching individual voir dire could potentially prejudice the right of the Defendant to a fair, impartial jury.

The Court finds that closing those portions of voir dire where jurors are individually questioned outside the presence of other jurors but upon the record serves to protect and insulate the Defendant's right to a fair trial.

The Court finds that making available for victims and the public a means to observe those portions of voir dire that are not appropriate to close is an important right to protect.

The Court has considered the competing rights of a defendant to a fair trial through the jury selection process, the rights of victims to observe criminal proceedings, and the rights of the public to attend criminal trials can be balanced by providing the victims and general public access to the simulcast rooms to observe all portions of voir dire that are not individualized questioning of prospective jurors.

Accordingly, the Court finds that this arrangement to allow open and public access by allowing victims and the public to observe from the simulcast rooms is the least restrictive means to promote with efficiency, a thorough and searching inquiry of prospective jurors that will not


¹ See *Presley v. Georgia*, 558 U.S. 209, 130 S. Ct. 721, 175 L.Ed.2d 675 (2010) (“Our cases have uniformly recognized the public-trial guarantee as one created for the benefit of the defendant.”)

stifle honest responses in order to select a fair and impartial jury. The Court finds that this arrangement protects and balances the rights of the jurors to retain their privacy interests, the right of the defendant to a fair trial, and the rights of victims and the public to be present at criminal trial proceedings.²

There shall be no video transmission of prospective jurors, and any portion of questioning that is appropriate to conduct *in camera* will not be transmitted through the simulcast to an additional room in Ada County.

IT IS SO ORDERED.

Dated this 10 day of March, 2023.


Steven W. Boyce
District Judge



² Id. ("There are no doubt circumstances where a judge could conclude that threats of improper communications with jurors or safety concerns are concrete enough to warrant closing *voir dire*. But in those cases, the particular interest, and threat to that interest, must "be articulated along with findings specific enough that a reviewing court can determine whether the closure order was properly entered.")

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of March, 2023, the foregoing Order was entered and a true and correct copy was served upon the parties listed below by mailing, with the correct postage thereon, or by causing the same to be delivered to their courthouse boxes; by causing the same to be hand-delivered, by facsimile, or by e-mail.

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Clerk of the District Court
Fremont County, Idaho

by 
Deputy Clerk